



September 13, 2021

VIA ECF

Honorable Loretta A. Preska
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Giuffre v. Dershowitz*, Case No.: 19-cv-03377-LAP

Dear Judge Preska:

We write in our capacity as counsel to Plaintiff Virginia Giuffre in *Giuffre v. Prince Andrew, Duke of York*, 1:21-cv-06702-LAK, pending before Judge Lewis Kaplan, to respond to Alan Dershowitz's letter dated September 8, 2021 (Dkt. 335), in which Mr. Dershowitz seeks to disclose confidential discovery material to Prince Andrew, purportedly for use in the case before Judge Kaplan.

The Court should deny Dershowitz's request, which has nothing to do with the claims or defenses between the parties in this case. Prince Andrew is free, of course, to seek the Epstein settlement agreement during discovery in his own case, and can raise any release arguments himself before Judge Kaplan.

As a threshold matter, we believe that Mr. Dershowitz lacks standing to seek disclosure of confidential information for use in another case in which Mr. Dershowitz is not a party. If the case before Judge Kaplan proceeds to the merits, and if a discovery request for the release in that case is made, and if Judge Kaplan determines the release may be relevant, it will be produced in that case subject to whatever protective order Judge Kaplan deems appropriate.

Moreover, if Your Honor were to reach the merits of Mr. Dershowitz's request, we believe it should be denied because

(a) The release is an affirmative defense that is irrelevant until asserted, and Prince Andrew has not yet responded to the Complaint in the case before Judge Kaplan.

(b) There is no evidence from any of the parties to the release, or Prince Andrew, that the release was ever intended to include Prince Andrew, and we believe the evidence will be that it wasn't. Indeed, the only two parties to the release (Mr. Giuffre and Mr. Epstein) by their conduct have made clear that they did not intend to release Prince Andrew.

(c) Even if (contrary to fact) the release was intended to cover Prince Andrew, there are substantial doubts about the effectiveness of the release itself, which is reflected in the fact that Mr. Epstein's estate did not rely on the release and last year settled Ms. Giuffre's claims against Mr. Epstein for a substantial amount.

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(d) The release on its face at most covers persons who could have been defendants in the Florida case in connection with which the release was prepared. Unlike Mr. Dershowitz (who abused Ms. Giuffre in Florida), there was not jurisdiction in Florida for the claims being asserted against Prince Andrew in the case before Judge Kaplan.

Moreover, leaving aside the cynicism of Mr. Dershowitz's invoking the Epstein release to escape litigating sexual abuse claims against him after repeatedly and loudly asserting that he was affirmatively seeking a judicial forum to adjudicate those claims,¹ the fact that counsel decided as a matter of "litigation strategy" not to litigate that issue after Mr. Dershowitz sought to rely on the release says nothing about the relevance of the release to the claims against Prince Andrew. Mr. Dershowitz played a significantly different role in connection with the Epstein/Maxwell sex trafficking enterprise than Prince Andrew did. In addition, a voluntary dismissal may often "reflect litigation strategy" rather than evidencing a claim's strength or weakness. *See Souran v. Travelers Ins. Co.*, 982 F.2d 1497, 1509 n. 15 (11th Cir. 1993); *see also Carlton Grp., Ltd. v. Tobin*, No. 02 CIV.5065 SAS, 2003 WL 21782650, at *2 n.5 (S.D.N.Y. July 31, 2003).

Respectfully yours,



David Boies

cc: Counsel of Record (via ECF)

¹ See, e.g., <https://twitter.com/AlanDersh/status/1102030042379370496> ("I hereby accuse my false accusers of committing the felony of perjury and challenge them to sue me for defamation."); DAILYMAIL.COM (Apr. 16, 2019), <https://dailym.ai/2ScPyrF> ("This is an opportunity for me finally to have a judicial forum to prove that she made up the whole story and that she's a perjurer."); FOX NEWS (Aug. 10, 2019), <https://bit.ly/38TIV3r> ("We're gonna go to court and we're gonna prove that this woman is a liar who was put up to it by her lawyers."); LAW & CRIME (Dec. 4, 2018), <https://bit.ly/2EASaYl> ("I can prove conclusively that she made the whole thing up."); THE HARVARD CRIMSON (Dec. 5, 2018), <https://bit.ly/2S8lSe5> ("There is evidence that directly proves I was framed.").